

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2008-____WS

IN RE: Petition of the Office of Regulatory)	PETITION OF THE OFFICE OF
Staff for a Declaratory Order)	REGULATORY STAFF FOR AN
Against Seahorse Investment and/or)	ORDER REQUIRING CERTIFICATION
Brett Gaston Requiring Certification)	AS A WATER AND SEWER UTILITY
as a Water and Sewer Utility and the)	AND THE POSTING OF A
<u>Posting of a Performance Bond</u>)	PERFORMANCE BOND

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina (“the Commission”) is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina and that the Commission is responsible for the regulation of water and wastewater utilities operating for compensation as set forth in S.C. Code Ann. § 58-5-10 et seq. (Supp. 2007), and that the Office of Regulatory Staff (“ORS”) is a state agency charged with the duty to represent the public interest pursuant to S.C. Code Ann. § 58-4-10 (Supp. 2007), et seq. and to make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the Commission.

2. Upon information and belief, that Seahorse Investment and/or Brett Gaston (“Seahorse,” “Gaston” or “Respondent”) is the owner/operator of a public water distribution system providing water service to approximately 66 residential customers in the Dale Valley Mobile Home Park, 7021 Stall Road, North Charleston in Charleston County, South Carolina, and that Respondent owns and/or operates a wastewater collection system in the Dale Valley Mobile Home Park.

3. That Respondent, as owner/operator of a public water system, provides water to the residents of the Dale Valley Mobile Home Park (herein “customers”) for compensation and, as owner/operator of the wastewater collection system, also provide sewerage collection for compensation. The rates charged for the water provided and the wastewater collection have been set by Respondent and are included together in one bill, and these rates have not been established, approved, or reviewed by the Commission.

4. That the water system and wastewater collection system operated by Respondent meet the definition of “public utility” as that term is defined in S.C. Code Ann. § 58-5-10(4) in that it is a “corporation or person furnishing or supplying in any manner gas, heat (other than by means of electricity), water, sewerage collection, sewerage disposal....to the public, or any portion thereof, for compensation.”

5. That Respondent and the water system and the sewerage collection system which Respondent operates are not certificated by the Commission as a public utility lawfully authorized to provide, supply, or furnish water service or sewerage collection for compensation in the State of South Carolina. As an uncertificated water and sewerage company, Respondent has never filed any of the documents, bonds, reports, or other instruments required of such companies under South Carolina law with either the ORS or the Commission.

6. That the water system and wastewater collection system serving the Dale Valley Mobile Home Park was previously a water system and wastewater collection system known as S.D. Utilities, which was owned by William Bartlett and was under the jurisdiction of and regulated by the Commission. Upon information and belief, the system was sold to Respondent in June 2006 as part of the transfer of the Dale Valley Mobile Home Park. The parties did not seek the Commission’s approval for the transfer pursuant to S.C. Code Ann. Regs. 103-504 and 103-704 (Supp. 2007), and none was obtained.

7. That the Commission has jurisdiction over Respondent's water system and sewerage collection system pursuant to S.C. Code Ann. § 58-5-10 et seq. (Supp. 2007). Further, although Respondent has not consented to jurisdiction of the Commission, the Commission has the duty, before the granting of authority or consent to any water or sewer utility regulated by the Commission for the operation, maintenance, or acquisition of any facility or system, to prescribe that the utility file with the Commission a bond with sufficient surety payable to the Commission and conditioned upon the provision by the utility of adequate and sufficient service. S.C. Code Ann. § 58-5-720 (Supp. 2007). If the Commission finds that Respondent is operating the water system and the sewerage collection system serving the Dale Valley Mobile Home Park for compensation it is then, by statutory definition, a "public utility" and subject to the jurisdiction of this Commission. S.C. Code Ann. § 58-5-10(4) (Supp. 2007).

8. That, therefore, Respondent or the Dale Valley Mobile Home Park water system and sewerage collection system owned and operated by Respondent must apply to the Commission for a Certificate of Public Convenience and Necessity to operate this system. Further, Respondent must have the rates and fees charged to the customers of these systems approved by the Commission under the authority granted to the Commission under § 58-5-210 (1976) and must additionally provide to the Commission performance bonds under the provisions of S.C. Code Ann. § 58-5-720 (Supp. 2007) and such other information and reports as the required by law.

WHEREFORE, the ORS staff prays that the Commission:

1. Inquire into the ownership of the distribution system supplying water to the Dale Valley Mobile Home Park and the sewerage collection system serving the Dale Valley Mobile Home Park.

2. If the water distribution system supplying and providing water to the Dale Valley Mobile Home Park and the sewerage collection system serving the Dale Valley Mobile Home Park are found to be public utilities under S.C. Code Ann. § 58-5-10 *et seq.*, order Respondent or such other proper person or entity to:

(a) apply pursuant to 26 S.C. Code Ann. Regs. 103-704 and 103-504 for a Certificate of Public Convenience and Necessity to operate the facilities,

(b) provide bonds pursuant to S.C. Code Ann. § 58-5-720 (Supp. 2007) and that such bonds be in an amount as required under 26 S.C. Code Ann. Regs. 103-712.3.1 and 103-512.3.1, and

(c) seek approval of rates to be charged for the provision of the utility services.

3. Order Respondent or such other identified and properly certificated owner/operator of the Dale Valley Mobile Home Park water and sewerage collection systems, to comply with Commission rules and regulations and file information identifying the Authorized Utility Representative of that company and to file annual reports with the Commission as mandated by 26 S.C. Code Ann. Regs. 103-712.1 and 103-512.1.

4. Order Respondent or such other identified and properly certificated owner/operator of the Dale Valley Mobile Home Park water and sewerage collection systems to cease charging Respondent's current rates and fees, which rates and charges have not been approved by the Commission.

5. Order Respondent or such other identified and properly certificated owner/operator of the Dale Valley Mobile Home Park water and sewerage collection systems to charge only those rates as were approved by the Commission in Order No. 2004-99 in Docket

No. 2003-276-WS,¹ which were the last ordered rates in effect before the unapproved transfer to Respondent, contingent upon Respondent filing within a time specified by the Commission an application for transfer of the system and a rate case seeking approval of new rates pursuant to 26 S.C. Code Ann. Regs. 103-703 and 103-503 or upon Respondent filing an establishment case to establish a new utility.

6. For any additional action or relief which the Commission may deem necessary.

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May 8, 2008
Columbia, South Carolina

¹ Dale Valley Mobile Home Park was served by S.D. Utilities, Inc., and the last Commission approved rates for the customers in this park were approved in by Order No. 2004-99 (dated March 8, 2004). The history of the utilities serving this mobile home park and the rates approved for utility services is shown by the following orders issued by the Commission:

(1) Order No. 93-607 (dated July 9, 1993), Docket No. 93-288-W/S wherein Sherwood Enterprises DBA Sherwood Utilities (Sherwood) obtained approval to extend its service area to include the Dale Valley Mobile Home Park in North Charleston, South Carolina;
(2) Order No. 2004-99 (dated March 8, 2004), Docket No. 2003-276-W/S, wherein the Commission approved an increase in rates and charges for Sherwood, and
(3) Order No. 2004-568 (November 15, 2004), Docket No. 2004-161-W/S, wherein the Commission approved the transfer of the water/sewer system owned by Sherwood Utilities Company to S.D. Utilities, Inc.

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CERTIFICATE OF SERVICE

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **Petition for Declaratory Order, Emergency Petition and Proposed Order of Single Commissioner** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Brett Gaston
9 Seahorse Ct.
Isle of Palms, SC 29451-2454

Seahorse Investment
1150 Hungryneck Blvd, Suite C-380
Mt. Pleasant, SC 29464


Pamela J. McMullan

May 8, 2008
Columbia, South Carolina